



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,098	08/23/2001	Chris P. McIntosh	A-65029 / MSS/WEN	9835

7590 05/09/2005

FLEHR HOHBACH TEST ALBRITTON & HERBERT LLP
Suite 3400
Four Embarcadero Center
San Francisco, CA 94111-4187

EXAMINER

NGUYEN, TU X

ART UNIT	PAPER NUMBER
----------	--------------

2684

DATE MAILED: 05/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/938,098

Applicant(s)

MCINTOSH ET AL.

Examiner

Tu X Nguyen

Art Unit

2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date. _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Applicant's arguments with respect to claims 1 and 10 have been considered but are moot in view of the new ground(s) of rejection.

Regarding independent claim 16, applicants argue that "none of Fletcher or Petersen teach or suggest a distributed cellular communication system that comprises a network with a plurality of transceivers and a plurality of base station controllers".

However, multiple base station controller network is inherent to Fletcher because in the art of telecommunications it is inherent to a system to have multiple base station controllers, Fletcher disclose an MSC is designed and constructed to the technical and functional specifications provided for in the current GSM standard (see col.11 lines 62 through col.12 line 6), However, Fletcher invention is equally applicable to use with technologies and applications other than GSM including, among others such as PCS, CDMA systems also connect to PSTN network. As evident, the Examiner introduces Zadeh (US Patent 6,324,406) fig.1 to simply show that it is inherent to Fletcher to have multiple base station controllers comprising plurality of base stations in PSTN network.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 2684

3. Claims 1-2, 7-13 and 16-19, are rejected under 35 U.S.C. 103(a) as being unpatentable over by Fletcher et al. (US Reg. H1836) in view of Feurerstein et al. (US Patent 6,141,565) and further in view of Zadeh (US Patent 6,324,406).

Regarding claim 1, Fletcher et al. disclose a distributed cellular communication system comprising:

- a network (100, fig.1);

- a public switched telephone network (PSTN) coupled to the network (106, fig.1);

- a plurality of transceiver (102) coupled to the network, the plurality of transceivers geographically separated from one another and each configured to communicate over a wireless medium with mobile stations (110) in an associated cell (see col.5 lines 17-52);

- at least one data processing system coupled to the network, the at least one data processing system configured to execute computer programs including software functional blocks adapted to enable the plurality of transceivers to communicate data between mobile stations and between a mobile station and the PSTN, the software functional blocks (see col. 7 lines 30-44 and col.9 lines 15-24) including:

- a mobility management (MM) functional block to implement MM functions (see col.23 lines 41-42));

- a visitor location registry (VLR) functional block to implement VLR functions (see 502, 612, fig.6);

- a communication management (CM) functional block to implement CM functions (see col.23 lines 35-41); and

a plurality of radio resources function blocks to implement RR functions including maintaining communication between a mobile station and the network by switching communication among the plurality of transceivers as the mobile station moves from one cell to another cell (see col.23 line 64 through col.24 line 5 and col.6 lines 14-15).

Fletcher et al. fail to disclose communication traffic among the transceivers and the software functional blocks is load-balanced.

In the same field of endeavor, Feuerstein et al. disclose communication traffic among the transceivers and the software functional blocks (see col.4 lines 3-5 and fig.3) is load-balanced (see col.2 lines 37-40) to provide increased efficiency. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Fletcher et al. with the above teaching of Feuerstein et al. in order to provide optimization of network parameters based on dynamic communication and network conditions such as traffic load and balancing conditions and/or changing interference conditions.

Fletcher et al. fail to disclose a plurality of base station controllers coupled to the network; wherein each of the plurality of the base station controllers communicates with each of the plurality of the transceivers through the network.

Zadeh discloses a plurality of base station controllers (32, 34, fig.1) coupled to the network (12, 14, fig.1); wherein each of the plurality of the base station controllers communicates with each of the plurality of the transceivers (52, 54, 56, 76, 78, fig.1) through the network. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Fletcher and

Art Unit: 2684

Feurerstein, with the above teaching of Zadeh in order to provide cellular network serving multiple geographic areas.

Regarding claim 10, Fletcher et al. disclose a distributed cellular network for providing wireless communication with a plurality of mobile stations, comprising:

a plurality of base transceiver station network elements configured to communicate with the plurality of mobile stations over a wireless medium, wherein each base transceiver station includes a network interface adapted to couple to a network (see col.5 lines 17-25);

a plurality of base station controller network elements each including a network interface adapted to couple to the network (see col.21 lines 45-65);

at least one mobile station controller network element including a network interface adapted to couple to the network (see col.21 lines 20-21);

Fletcher fail to disclose communication traffic among the base transceiver stations, the base station controllers and the mobile switching center is load-balanced.

In the same field of endeavor, Feuerstein et al. disclose communication traffic among the base transceiver stations, the base station controllers and the mobile switching center is load-balanced (see col.4 lines 3-5 and col.7 lines 19-32) for efficiency. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Fletcher et al. with the above teaching of Feuerstein et al. in order to provide optimization of network parameters based on dynamic communication and network conditions such as traffic load and balancing conditions and/or changing interference conditions.

Art Unit: 2684

Regarding claim 16, Fletcher discloses 16 a method of providing wireless communication with a plurality of mobile stations using a cellular network including a plurality of network elements, comprising the steps of:

communicating inbound information with a mobile station over a transceiver network element (see col.18 lines 1-24 "data is received from a base transceiver station" corresponds to "inbound information with a mobile station over a transceiver");

communicating the inbound information with one of at least two base station controller network elements to further process the inbound information (see col.18 lines 1-14);

communicating the inbound information with one of at least two base station controller network element for further process the inbound information (see col.18 lines 1-14, "two base station controller network elements" is inherent, Fletcher teaching a single network in cellular network for simple illustration, however, in the real world, there are multiple cellular networks interconnect in PSTN);

Fletcher fails to disclose network traffic among the network elements is load-balanced.

In the same field of endeavor, Feuerstein et al. disclose communication traffic among the network elements is load-balanced (see col.2 lines 37-49) for efficiency. Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Fletcher et al. with the above teaching of Feuerstein et al. in order to provide optimization of network parameters based on

Art Unit: 2684

dynamic communication and network conditions such as traffic load and balancing conditions and/or changing interference conditions.

Regarding claims 12 and 18, the modified Fletcher et al. disclose communications traffic among the transceivers and the software functional blocks is load-balanced to provide increased efficiency (see Feuerstein et al. see col.4 lines 3-5, fig.3 and col.2 lines 37-49).

Regarding claim 7, the modified Fletcher et al. disclose at least one of the plurality of RR functional block is resident on a special purpose data processing system known as a base station controller (BSC) (see Fletcher et al., col.6 lines 46-64).

Regarding claim 8, the modified Fletcher et al. disclose the data communicated between mobile stations and between a mobile station and the PSTN includes voice communication (see Fletcher et al., col.9 lines 15-24).

Regarding claim 9, the modified Fletcher et al. disclose each of the plurality of transceivers includes a transceiver and a base transceiver station software functional block resident on a data processing system coupled to the network (see Fletcher et al., col.21 lines 45-67).

Regarding claims 11 and 17, the modified Fletcher et al. disclose each of the network elements is given a predetermined network address and communication traffic is routed to each of the network elements based on the predetermined network address (see Fletcher et al., col.22 lines 39-54).

Art Unit: 2684

Regarding claims 13 and 19, the modified Fletcher et al. disclose if one of the network elements fails, communication traffic is routed to another network element capable of performing the required functions (see Fletcher et al., col.16 lines 29-48).

4. Claims 3-6, 14-15 and 20-25, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fletcher et al. in view of in view of Feuerstein et al. (US Patent 6,141,565) and further in view of Petersen (US Patent 6,574,221).

Regarding claims 3 and 22-25, the modified Fletcher et al. disclose circuit switched networks (see col.5 lines 40-61). However Fletcher et al. fail to disclose Internet protocol networks and ATM networks.

Petersen discloses Internet protocol networks and ATM networks (see col.9 lines 2-3). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Fletcher et al. with the above teaching of Petersen in order to provide the architecture and configuration of various nodes in a mobile communications network.

Regarding claims 4-5, 14-15 and 20-21, the modified Fletcher et al. fail to disclose the network is an internet protocol network, and wherein the PSTN is coupled to the IP network via a voice gateway.

In the same field of endeavor, Feuerstein et al. disclose the network is an internet protocol network, and wherein the PSTN is coupled to the IP network via a voice gateway (see col.9 lines 1-5). Therefore, It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of the modified

Art Unit: 2684

Fletcher et al. with the above teaching of Petersen in order to provide the architecture and configuration of various nodes in a mobile communications network.

Regarding claim 6, the modified Fletcher et al. disclose the voice gateway software functional block, the MM functional block and the VLR functional block are resident on a special purpose data processing system known as a mobile service center (MSC) (see Fletcher, col.23 lines 26-43).

Conclusion

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tu Nguyen whose telephone number is 571-272-7883. The examiner can normally be reached on Monday through Friday from 8:30AM-4:30PM.

Art Unit: 2684

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MAUNG NAY A, can be reached at (571)-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Hand-delivered responses should be brought to Crystal Park II, 2121
Crystal Drive, Arlington, VA., Sixth Floor (Receptionist).

TN

April 22, 2005


NAY MAUNG
SUPERVISORY PATENT EXAMINER